G. R. S. IX-5]

Previous references.

R. C. / 07 / 57

1879

~~191~~ .

(Municipal)

File No. 3

Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 2

Part B for August 1879.

SUBJECT.

Recommending the introduction of certain Municipal Regulations in the Provinci

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Cor. Forwarded

L. S.

W D 88—GPB—50,000—24-7-16

Mr. Wm. Nugent, Nusaun.

163
15.7.79.

1879.

From Hyderabad Residency
Chaiga Assistant

To

Secretary to Chief Commissioner,
Revenue ~~General~~ Department.

Dated 14th
Despatched 15th
Received 18th.

ENCLOSURES NO. 1

General No. 264 } 1879-80
Rev No. 11 }

Sir,

I have the honor to report for the orders of the Chief Commissioner, C.P. that a letter No 303 dated 4th inst from the Resident (Commissioner of Nagpur) requesting information regarding the Municipal Laws in force in that place, I have the honor to observe that the representation made by the Nagpur Municipality is similar to that contained in the Commissioner's letter

Regulations for the administration of Municipalities in Berar will be passed at an early date. Meanwhile Municipalities, in any exercise such powers as the local Government may be pleased to delegate to them include the carrying of general terms of Municipal taxation as regards nuisances and similar offences the Municipalities may be dealt with by the local Magistracy under the Penal Code and Police regulations. The Municipality of Nagpur may be reasoned to have been assigned to the local Government and accompanying officers

2/

Letter No. 376/158 of the 31st August 1874 forwarded by the correspondence ending this office No 404 dated 8th October 1875, recommending the introduction of certain Municipal regulations framed upon the Bombay Municipal Act No. 4 of 1873.

2. From the Chief Commissioner's Proceedings No. 600-602/51 of the 21st May last it would appear that a draft of Municipal Rules is under the Chief Commissioner's consideration.

3. It is of great importance that the powers and functions of these Municipal Boards should be legally defined as early as possible.

I have the honor to be,
Sir,
Your most obedient
Servant

Chief Commissioner
Assam

53

303

Dated 4th July 1877

From

The Deputy Commissioner
Nadia District

To

The Commissioner,
Nagar Division.

Sir,

I have the honor to report that owing to a recent case decided against the Municipality of Chuknagar by the Moonsiff, I was induced to look up all the old Records connected with the formation of the Municipality, and regret to say that I find the following irregularities in its constitution and powers which are very likely to invalidate many of its proceedings and to paralyse its action in Municipal matters.

2. The Letter which led to the formation of the Municipality is one from the Chief Commissioner No. 3519/92, dated 26th December 1863 sanctioning for one year experimentally the formation of a Mun-

fund and the levy of an octroi duty on certain articles imported into the town for consumption, and promising a grant from Government of a sum equivalent to that raised by contributions from the inhabitants

3. In this letter no mention is made of a Board, nor of its functions, nor of its power to administer the fund raised as above, nor did it sanction a house tax; and I regret to add that what was sanctioned experimentally for one year has been continued ever since without any distinct authority from the Chief Commissioner.

4. The Board was formed on the strength of a letter from the Superintendent of Nagar, giving cover to the Chief Commissioner's letter above referred to, and stating that it conveyed sanction to the establishment of a Municipal Board which it clearly did not.

5. In this letter two other sources

of income were also marked out viz.t.

(a) Unclaimed or confiscated town lands or houses.

(b) Sale proceeds of building sites. Regarding which, I may here remark that the Government has practically given up to Municipalities all waste lands within their respective limits, to which no one can take objection in any legal proceeding, as it is an act of generosity on the part of the State; but this concession cannot give to a Municipality any right to seize and confiscate private property on the ground that the sites are waste or unutilized, which principle has been recognized by the Chief Commissioner in his Proceedings No 600-602 Mt. 51 dated 21st May 1879 - that lands can only be taken possession of under article 142 of Schedule II of the Indian Limitation Act read in the light of section 28 of the said Act, which provides for the owner losing his right to land if abandoned for a period of 12 years, in which case, title

would lapse, I presume, to Govern=
ment, who have made over their
rights in such matters to Munici=
palities –

6 In addition to the Octroi
and House Tax and the proceeds
of lands unclaimed, confiscated
and waste already referred to, the
Municipality receives the
following Taxes and Fees.

(a) Duty on Piece Goods. Sanctioned in the Des=
=cumps of the Chief Commr.
dated 19th July 1875.

(b) Abolitionfee – Transferred to the Muni=
=cipality on condition of its
bearing the cost of the Re=
=vised Police and Head of
Education, as per order
No. 4322 dated 16th September
OR 77
1874

(c) Cattle Pound Collections. Levied under Section 18
of the Cattle Trespass Act 1871
and transferred to Mu=
=nicipality by Chief Commrs
Letter No 1210 dated 18th
PWD 5
July 1863.

(d) School Fees Transferred by the [illegible] in the
Chief Commrs. Order No [illegible]
3000 dated 23d June 1876 25-6-76.
F. 66

(6).

(e). Fines under Municipal Rules — } Unrecoverable as will be shewn hereafter.

(f) Sale proceeds of Rubbish mamore and grass } No authority required.

7. With reference to the items, b, c. d. and f, they are valid and legal sources of income and no objection can be taken to their recovery but as regards the others, I beg to submit the following remarks.

8. The Octroi duties on the articles of consumption specified and on the Piece Goods do not appear to have been imposed by the authority of the Government of India, and the continuance of the former has not even been sanctioned by the Chief Commissioner, nor has the house tax been authorized. It is true that their levy and the existence of the municipality is no secret, that these matters have constantly been alluded to in correspondence, they have been made the subject of accounts duly rendered, and of Budgets annually framed, and the Proceedings of the Chief Commr

are

are submitted to the Government of India, who have tacitly if not expressly approved of them, but I respectfully submit that for any law to have force or for any new tax to be imposed, it is essential that the Government of India should give their formal and express sanction to the same and which I further submit should be noted in the order or Notification introducing it.

9. The Board has no legal status and has no authority to frame bye laws for regulating its proceedings and for suppressing nuisances, and with regard to the list of offences punishable by Municipal and published for information on the 16th August 1869 and extended to this town on the 25th September 1869. The Judicial Commissioner has ruled (Vide his

Letter No 679/97, dated 27th May 1879 to the address of the Commissioner of Nagar) that so far as he is aware there is no law authorizing the levy by distress and sale of fines imposed by Amildars for offences against Municipal Rules, other than nuisances punishable under the Indian Penal Code. In addition to which, this list does not purport to have been introduced under sanction of the Government of India.

10. I have therefore the honor to request you will be so good as to represent these matters to the Chief Commissioner with a view to the speedy introduction of a legal Code providing for the formation and functions of the Municipal Board of this town, empowering it to frame bye-laws for the prevention of nuisances and the preservation

health and cleanliness of the town and empowering it to collect taxes and to perform such acts, and exercise such privileges as appertain to a Municipality.

I have the honor to be &c.

(Signed) J. Lacey
Deputy Commissioner
Nadur District

"True copy"

[signature]
Commissioner
Nagar Darbar

Encl A

Genl
3-79
2

Read 1

Letter from the Commissioner
of the Dalan Division, dated
14th July 79 No 264, submitting
the Judges (Commrs)
a report upon a case decided
against the Municipality
of Chikmagalur by the Munsiff
at that place, & observing
that the representation made
by Mr Lacey is similar to
that contained in the correspondence
ending with his office No 4014
of 8th October 78, recommending
the introduction of certain
Municipal regulations founded
upon the Bombay Municipal
act No 8 of 1873, & also stating
that it is of great importance
that the powers & functions
of these Municipal Boards
should be legally defined
as early as possible

Genl No 1908-12 dy 9 Aug 1879
Mk 110

DG
5/8

Order thereon —

Regulations for the
administration of Municipalities
in the Province will be
passed at an early date.

I
M 163

Meanwhile, Municipalities can only exercise such powers as the Local Govt in virtue of its general authority has the right to delegate to them. These include the levy of the several items of municipal taxation. As regards nuisances and similar offences, they should be dealt with by the local magistracy under the Penal code & the Police regulations.

2 The Municipality of Chikmagalur having been recognized by the Local Government, can act as its agent in carrying into effect its orders

CR
Rev. Secretary

To
The Comm^r. Nagar
" " Ashtagram Divn.
Dy Comm^rs of Bangalore
Kolar &

Dated — 9th August
Dept. — "
Regd 13 — "
No 1908 — 12
MM 110

Stating that regulations for the administration of municipalities in the Province will be passed at an early date; meanwhile Municipalities can only exercise such powers as the Local Govt has the right to delegate to them.

To The Commissioner
Kolar Division.

" The Comm^r of Ashtagram Division
" The Dy Comm^rs of Bangalore
Kolar & Tumkur Dts